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Wednesday, 2 November 2011, 3 p.m.
New York

President:	Mr. Moraes Cabral	(Portugal)
Members:	Bosnia and Herzegovina	Mr. Barbalić
	Brazil	Mrs. Viotti
	China	Mr. Wang Min
	Colombia	Mr. Osorio
	France	Mr. Briens
	Gabon	Mr. Messone
	Germany	Mr. Wittig
	India	Mr. Hardeep Singh Puri
	Lebanon	Mr. Salam
	Nigeria	Mrs. Ogwu
	Russian Federation	Mr. Karev
	South Africa	Mr. Sangqu
	United Kingdom of Great Britain and Northern Ireland	Sir Mark Lyall Grant
	United States of America	Ms. Rice

Agenda

The situation in Libya

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The meeting was called to order at 3.10 p.m.

Expression of thanks to the retiring President

The President: As this is the first meeting of the Security Council for the month of November, I should like to take this opportunity to pay tribute, on behalf of the Council, to Her Excellency Mrs. U. Joy Ogwu, Permanent Representative of Nigeria, for her service as President of the Security Council during the month of October. I am sure I speak for all members of the Council in expressing deep appreciation to Ambassador Ogwu and her delegation for the great diplomatic skill with which they conducted the Council's business last month.

Adoption of the agenda

The agenda was adopted.

The situation in Libya

The President: Under rule 37 of the Council's provisional rules of procedure, I invite the representative of Libya to participate in this meeting.

Under rule 39 of the Council's provisional rules of procedure, I invite Mr. Luis Moreno-Ocampo, Prosecutor of the International Criminal Court, to participate in this meeting.

The Security Council will now begin its consideration of the item on its agenda.

I now give the floor to Mr. Moreno-Ocampo.

Mr. Moreno-Ocampo: It is my honour to brief the Security Council on the activities of the Office of the Prosecutor of the International Criminal Court on the situation in Libya in furtherance of resolution 1970 (2011).

In accordance with Office policy, the Prosecution has been focusing its investigations on those bearing the greatest responsibility for the most serious crimes committed in Libya. Let me stress that the Security Council consensus on the need to ensure justice for the victims of crimes in Libya, as expressed through resolution 1970 (2011) and reiterated at the meeting at which I first briefed the Council on this matter two months after its adoption (see S/PV.6528), has greatly contributed to the cooperation received by my Office and facilitated our investigations.

As I anticipated in my previous briefing, on 16 May the Office of the Prosecutor requested arrest warrants against three individuals who, according to the evidence, were most responsible for the attacks against unarmed civilians on the streets and in their homes in Benghazi, Tripoli and other cities in Libya during the month of February.

After a thorough evaluation of the evidence presented, on 27 June the Judges of Pre-Trial Chamber I issued arrest warrants for Muammar Al-Qadhafi, Saif Al-Islam Al-Qadhafi, and Abdullah Al-Senussi for murder and persecution as crimes against humanity under articles 7(1)(a) and 7(1)(h) of the Rome Statute, respectively.

The Chamber concluded that there were reasonable grounds to believe that Muammar Al-Qadhafi and Saif Al-Islam Al-Qadhafi were jointly responsible as principals in the crimes pursuant to article 25(3)(a) of the Statute, as indirect co-perpetrators of the crimes against humanity. The Chamber found that Abdullah Al-Senussi was also responsible as a direct perpetrator.

Allow me now to update the Council on the current situation of the three indictees.

On 20 October, Muammar Al-Qadhafi died. The Registry of the Court is following the formal procedures required to obtain official documents from the Libyan Government to certify his death. The Pre-Trial Chamber, after reviewing the documents, may decide to withdraw the warrant against Muammar Al-Qadhafi and to end the case against him.

Concerning Saif Al-Islam Al-Qadhafi and Abdullah Al-Senussi, the Office is galvanizing efforts to ensure that they face justice. We have received questions from individuals linked to Saif Al-Islam Al-Qadhafi about the legal conditions attaching to his potential surrender to the Court, namely, what would happen to him if he appeared before the judges, whether he could be sent back to Libya, and what would happen if he were to be convicted or acquitted. We clarified that, in accordance with article 107 of the Rome Statute, he may request the judges not to order his return to Libya after his conviction or acquittal, but that he be sent to a different country, provided that that country has consented to receiving him. The judges can also decide whether he may be extradited to another State. I believe that it is a positive sign that the Court is seen as a guarantor of the rights of the suspects.

On the other hand, we are also receiving information that a group of mercenaries may be endeavouring to facilitate Saif Al-Islam Al-Qadhafi's escape from Libya. We are calling upon States to do all they can to disrupt any such operation. It is up to Saif Al-Islam Al-Qadhafi and Abdullah Al-Senussi to decide if they will surrender, remain in hiding or try to escape to another country. It is up to the Security Council and States to ensure that they face justice for the crimes for which they are charged.

We are grateful for the strong and essential cooperation received from the Libyan authorities, including a recent invitation to visit Libya. Over this past weekend, the Office conducted its first assessment mission in Libya in order to prepare for the collection of further evidence in the territory where the alleged crimes took place. The Office coordinated with local authorities and local civil society. The Office met with various local committees mandated to investigate crimes committed by different parties in Libya.

The current focus of the investigations is twofold. First, it continues the collection of evidence against Saif Al-Islam Al-Qadhafi and Abdullah Al-Senussi in preparation for their eventual trial. Secondly, the Office is continuing its investigations into gender crimes committed in Libya.

The Office will continue to search out the personal assets of Saif Al-Islam Al-Qadhafi and Abdullah Al-Senussi for the potential benefit of the victims, through reparations awarded by the Court. Since the opening of the investigation, the Office has been in contact with the Sanctions Committee, which is assisted by a Panel of Experts, and with INTERPOL to coordinate its investigative efforts in relation to the personal assets of the suspects. In late September, the Court sent requests for assistance to Libya, States parties and five Security Council non-State parties to identify, trace, seize and freeze all the personal assets of the suspects. The Office encourages the Security Council and States to assist the Court in identifying and freezing these assets.

With respect to the second aspect of the investigation, the Prosecution is mindful that, in Libya, rape is considered to be one of the most serious crimes, affecting not just the victim, but also the family and the community, and can trigger retaliation and honour-based violence. Accordingly, the Prosecution has adopted a strategy that seeks to limit the exposure of victims. The Office is organizing its investigation by focusing on obtaining alternate evidence and identifying avenues of investigation that support charges without the need for multiple victim statements.

In this respect, the Prosecution has been in contact with different sources reporting multiple victims of sexual violence allegedly committed by Al-Qadhafi security forces. While it is premature to draw conclusions about specific numbers, the information and evidence indicate at this stage that hundreds of rapes occurred during the conflict. The investigation will benefit from a reporting system that has been set up by the Libyan authorities through the Ministry of Women's and Social Affairs, with the purpose of affording rape victims the opportunity to come forward.

The Office of the Prosecutor has also interviewed a limited number of victims who were kidnapped and raped in unknown, secret detention centres. The information and evidence thus far collected do not yet indicate who may be most responsible for such gender crimes. We have some evidence showing that commanders gave orders to commit rape in the Western Mountains area and our screening of possible witnesses indicates that Muammar Al-Qadhafi himself, Al-Senussi and other high officials were discussing the use of rape to persecute those considered dissidents or rebels.

In conclusion, there are allegations of crimes committed by NATO forces; allegations of crimes committed by forces of the National Transitional Council, including the alleged detention of civilians suspected to be mercenaries and the alleged killing of detained combatants; and allegations of additional crimes committed by Al-Qadhafi forces. These allegations will be examined impartially and independently by the Office.

The Office has been informed that the new Libyan authorities are in the process of preparing a comprehensive strategy to address these allegations, including the circumstances surrounding the death of Muammar Al-Qadhafi. In accordance with the Rome Statute, the International Criminal Court should not intervene if there are genuine national proceedings. Should the Libyan authorities decide to prosecute the case we are investigating — that of Saif al-Islam Al-Qadhafi and Abdullah Al-Senussi — for the same

crimes, they should submit an admissibility challenge, and it will be for the International Criminal Court's judges to decide.

In assessing the situation, the Office will benefit from the work of the United Nations Commission of Enquiry, which should present a report in March 2012. The Office is coordinating with Commission Chairperson Philippe Kirsch. At its third briefing to the Security Council in May 2012, the Office will be prepared to present to the Security Council a comprehensive report on the crimes allegedly committed by the different parties in Libya since 15 February 2011 and the existence of genuine national proceedings.

In summary, the Office will continue investigations into Saif Al-Islam Al-Qadhafi and Abdullah Al-Senussi and into rapes. As I have said, in May we will present a comprehensive analysis of the crimes allegedly committed and on the possibility for further investigations. I should clarify that the possibility of carrying out all of these investigations will depend on the budget available to the Office. This is a matter currently under discussion and will be decided in December 2011 at the upcoming session of the Assembly of States Parties.

The President: I thank Mr. Moreno-Ocampo for his briefing.

I now give the floor to the members of the Council who wish to make statements.

Mr. Osorio (Colombia) (*spoke in Spanish*): At this, your first meeting as President of the Council, I should like to welcome you, Sir, and to offer you our full cooperation towards the success of your work. I also extend special thanks to Ambassador Joy Ogwu for her outstanding work and wisdom in leading the Council last month.

I warmly thank the Prosecutor of the International Criminal Court (ICC), Mr. Luis Moreno-Ocampo, for his exhaustive second briefing on the implementation of the relevant provisions of resolution 1970 (2011) and for the additional information with which he has provided the Council today. His account of his work and his meticulous and conscientious attention to detail demonstrate that the Court is acting in great earnest.

Clearly, both the Office of the Prosecutor and the Pre-Trial Chamber have acted speedily and effectively during the first stage of the procedures arising from the Council's referral of the case to the Court in resolution 1970 (2011). We note that three cases have been opened charging murder and political persecution committed, according to the Prosecution, in the course of attacks on the civilian population in pursuit of State policy. Those are therefore crimes against humanity for which the individuals in question should be held criminally responsible, and the international community has shown a willingness to do so.

Investigations are continuing in other areas. In particular, the Office of the Prosecutor is considering the possibility of investigating accusations in connection with gender-related crimes and war crimes, which could give rise to new proceedings as a result of the events that occurred in Libya. My delegation believes that an essential part of this stage of the process is the necessary cooperation with the International Criminal Court of all actors involved, especially the new authorities in Libya. The second report of the Prosecutor contains important and encouraging references to the positive attitude in this regard on the part of both the States parties to the Rome Statute and other international bodies such as Interpol and United Nations commissions of inquiry.

We deem it of the utmost importance that those Governments that are the recipients of specific requests for cooperation with regard to goods and monies obtained through illicit activities respond rapidly to such requests. Such information could be vital to the conclusion of open investigations and could have serious ramifications in terms of the payment of reparations to victims, as is provided for under the Rome Statute.

We welcome the statements made by the new Libyan authorities with regard to their willingness to cooperate with the Office of the Prosecutor and their involvement in the important task of preserving evidence. It is now up to States to take the relevant measures to ensure that those accused who remain at large are apprehended.

As we stated at the meeting held last May, when the first report of the Prosecutor's Office with regard to the situation in Libya was presented, the arrest of those accused and their surrender to the ICC for trial is the way to implement the decision taken by the Security Council under Chapter VII of the Charter. Thus any failure to implement those measures would negatively affect the authority and credibility of the Council itself.

Ms. Rice (United States of America): Let me join my colleagues in congratulating you, Sir, on taking over the presidency of the Council. We look very much forward to working with you and with your delegation throughout the month. We have every confidence in your able leadership. I also want to join others in paying great tribute to Ambassador Ogwu and the delegation of Nigeria for their exceptionally skilful and wise management of the Council in the complex month of October.

I should like to begin by thanking the Prosecutor for his informative briefing and for his important contributions to laying the foundation for seeking the justice that Libyans so deserve. The Security Council's decision to refer the situation in Libya to the Prosecutor reflected the importance that the international community attaches to ensuring accountability for the widespread and systematic attacks against the Libyan people that began in the dark days of February. Resolution 1970 (2011), adopted even as atrocities were being perpetrated, represented a historic milestone in the fight against impunity. Justice and reconciliation efforts will be critical components of a successful transition that allows all of Libyan society to leave behind what has been in many, many respects a tragic and bloody past.

An effective criminal justice system with a competent judiciary and safeguards to guarantee humane treatment and due process is crucial to the future of Libya. The new Government must ensure that the rule of law, treatment safeguards and due-process protections are firmly in place. Helping the National Transitional Council (NTC) implement its commitments to respect human rights and to proper detention procedures that meet Libya's international obligations must be a very high priority. We emphasize the importance of ensuring that the human rights of all in Libya, including former regime officials and detainees, are fully respected during and after this transition period.

The victims of Al-Qadhafi's terrorism and their families in Libya and in the United States now know definitively that the era of Al-Qadhafi's violence has ended. Al-Qadhafi engaged in countless barbaric acts, but this does not and cannot justify the apparently brutal way in which he met his death. We welcome the NTC's announcement of an investigation into Al-Qadhafi's death and will look to it to follow through by undertaking an effective inquiry.

Independent and impartial investigations into abuses committed in Libya on both sides are the first step in fulfilling the NTC's commitments to accountability and laying a foundation for a transition that embraces the rule of law. We remain deeply troubled by reports, including those mentioned by the Prosecutor, that sub-Saharan African migrants and others detained in ad hoc jails are being abused. Continued support by the international community, including through the United Nations Support Mission in Libya, will be vital to helping the Libyan people achieve the future they seek.

We must now move together to support the creation of an inclusive and democratic State in which Libyans of all backgrounds have a future and an opportunity to participate in the rebuilding of their country. We welcome the Prosecutor's report that the NTC is fully cooperating with his investigation, in accordance with resolution 1970 (2011), and we encourage other States in which individuals subject to International Criminal Court arrest warrants may be found to ensure that they are brought to justice. We encourage the Prosecutor to continue to consult with the NTC.

We urge the speedy apprehension of Saif Al-Islam Al-Qadhafi and of Abdullah Al-Senussi, who remain at large in the region. They must be brought to justice in a legitimate process governed by the rule of law. Ensuring justice for those who have endured unspeakable atrocities will be crucial to Libya's ability to emerge from the ashes of dictatorship to become a country in which all of its citizens enjoy the full protection of the rule of law.

Mr. Hardeep Singh Puri (India): At the outset, I would like to join others in congratulating you, Sir, on your assumption of the presidency of the Security Council for the month of November. I would also like to take this opportunity to assure you and, through you, your delegation of my delegation's full cooperation in the discharge of your duties during the course of the month. I would like also to take this opportunity to thank the Permanent Representative of Nigeria, Ambassador Joy Ogwu, and her delegation for her successful stewardship of the work of the Council during the month of October. In addition, I would like to thank the Prosecutor, Mr. Luis Moreno-Ocampo, for his briefing today. We have also taken note of his second report to the Security Council, submitted pursuant to paragraph 7 of resolution 1970 (2011).

Even at the risk of sounding repetitive, it is necessary to reiterate that India is not a signatory to the Rome Statute and not a member of the International Criminal Court (ICC), for reasons that are well known. It is also important to note that of the 193 Members of the United Nations, only 119 are States parties to the Rome Statute of the ICC. Five of the 15 members of the Council, including three permanent members, are not parties to the Statute. We do, however, support the rights and obligations of the States that are members of the ICC.

The situation in Libya has significantly changed since the Prosecutor's last report and his briefing to the Security Council. During the eight months of conflict in Libya, there were a large number of deaths and destruction on a massive scale. The proliferation of weapons has emerged as a major problem, posing a threat to the stability of Libya as well as to that of the larger region.

The time has come for the new authorities in Libya to exert their sovereignty and independence and undertake an inclusive political process aimed at achieving national reconciliation, peace, security and stability in the country. The international community, including the Security Council and the ICC, should fully assist the Libyan authorities in that process. That inclusive approach to national reconciliation, anchored in State sovereignty, is the only way to overcome the multitude of problems that Libya faces in the present ostensible post-conflict scenario.

We have noted that the ICC Prosecutor's immediate goal is to complete the investigation into the alleged crimes against humanity and war crimes. The Prosecutor's Office is also making progress in the investigations on gender crimes and is examining information related to attacks on migrant workers. We expect that the Prosecutor will carry out a thorough and impartial investigation into all alleged crimes by all parties to the conflict in Libya. The Prosecutor must not be influenced by non-judicial considerations and must focus his attention solely on prosecution, without diversion due to extraneous considerations. All those responsible for committing crimes covered under the Rome Statute should be held accountable irrespective of which side to the conflict they may belong to. Political or other non-judicial considerations should not exonerate anybody from prosecution for the crimes committed.

Last but not least, it is also important to ensure that all actions by the ICC Prosecutor should fall strictly within the ambit of resolution 1970 (2011), in particular paragraph 6, which concerns the States that are not parties to the Rome Statute.

Mr. Karev (Russian Federation) (*spoke in Russian*): First of all, like previous speakers, we would like to congratulate you and your team, Sir, on your assumption of the presidency of the Security Council for the month of November. We wish you success, especially given the very heavy agenda for the month of November. We are prepared to do everything we can to help you and your team to achieve success in the Council's work. I would also like to take this opportunity to thank the Permanent Representative of Nigeria and her team for their very successful conduct of the Council's deliberations in the month of October.

We thank Mr. Luis Moreno-Ocampo for his briefing on the investigation of the situation in Libya pursuant to resolution 1970 (2011). As we understood from his presentation, the International Criminal Court (ICC) is carrying out phased work on the investigation of actions committed by representatives of the Al-Qadhafi regime. We therefore welcome contacts by representatives of the ICC with some of the accused with regard to their voluntary surrender to the investigation. We regret the fact that Al-Qadhafi himself, who was cruelly killed on 20 October, will not be unable to say anything to ICC investigators. I should like to make the following additional points.

During the last briefing by the ICC Prosecutor, we said that the Court should carefully consider the actions of all parties in the Libyan conflict. We recall that, pursuant to resolution 1970 (2011), the Council transferred the entire Libyan situation to the Court — not just the situation pertaining to the actions of the Al-Qadhafi regime.

The number of civilian casualties and the scale of the destruction of civilian sites as a result of the actions of all parties to the conflict in Libya is very great. Unfortunately, civilian casualties were also caused by the actions of known NATO coalition forces.

We cannot but be alarmed about the most recent information from Libya with regard to the uncovering of mass graves, of both rebels and supporters of Al-Qadhafi. It is our belief that all who are guilty of the most serious crimes under international law committed during the conflict in Libya will be

punished. We therefore welcome the statement issued by the National Transitional Council (NTC) in which it expresses its intention to conduct an investigation of the killing of Al-Qadhafi and his son Mutassim. However, we would like to emphasize that this is not an issue of just investigating those separate killings; it is a matter of a full-scale investigation of all other serious crimes. We hope that the NTC has enough determination and, more important, the necessary resources to impartially and conscientiously conduct such an investigation.

At the same time, we have nagging doubts that the conduct of such an investigation in an appropriate fashion can be possible, at least in the near future, in a country with a devastated State structure and in the virtual absence of normally functioning judicial and law enforcement bodies. It is in that regard that we see a substantive role for the ICC. We believe that the Court should carefully follow the pace of the investigation in Libya and provide it with active assistance. We believe that if, at some point, it becomes obvious that the Libyan side is for some reason not in a position to carry out such an investigation, then the ICC should step in and do so.

For our part, we are prepared to support the efforts of the ICC in undertaking a fair investigation of the actions of all parties to the Libyan conflict, so as to bring to justice individuals involved in potential crimes against humanity and serious violations of international humanitarian law in Libya.

Mr. Briens (France) (*spoke in French*): I would first of all like to congratulate you, Sir, and to express our best wishes for the success of your presidency. I also wish to thank Ambassador Ogwu and her entire team for their effective presidency in the month of October. I would also like to thank Prosecutor Luis Moreno-Ocampo for his report and briefing today. I should like to make three comments.

First, on resolution 1970 (2011), since mid-February of this year, in the face of the outrages committed by Libya's leaders, the League of Arab States, the African Union and the Secretary-General of the Organization of the Islamic Cooperation condemned the serious violations of human rights and international humanitarian law. The Security Council itself, on 26 February, responded swiftly by unanimously adopting resolution 1970 (2011), which referred the situation in Libya to the Prosecutor of the International Criminal Court (ICC). When a Government attacks its own citizens, rather than protecting them, and when the crimes committed are an affront to the conscience of humankind and affect the stability of an entire region, the international community has the responsibility to intervene to protect civilians. That is what we did in Libya with resolution 1970 (2011). The imperative of ensuring justice, underscored in the resolution, continues to be valid today. That is true in the case of Libya just as it is for all countries in which civilians' aspiration to respect for their freedom and fundamental rights is met with repression on the part of authorities who ignore the calls of the international community. As the violence in Syria and Yemen continues, the Council must reiterate its message as to the primacy of law and the need to combat impunity in all cases, just as it did following the crisis in Côte d'Ivoire.

Secondly, with regard to the work of the International Criminal Court, following the adoption of resolution 1970 (2011), the Prosecutor mobilized his entire team and was able to complete his investigation in three months. On 16 May, he issued a request for three arrest warrants — against Muammar Al-Qadhafi, Saif Al-Islam Al-Qadhafi and Abdullah Al-Senussi. On 27 June, the Court's judges decided to issue those warrants for murder and persecution as crimes against humanity. The warrants detail the systematic attacks against civilians, the methods employed to crush any form of opposition — forced disappearance, arbitrary detention, torture — as well as the role of Muammar Al-Qadhafi and his circle in organizing the violence. The International Criminal Court, the sole permanent court of a universal character, was able to gather legal evidence of those acts even as the violence was taking place. It has therefore demonstrated its ability to react swiftly, thereby putting pressure on those organizing and carrying out the crimes. That is a message we should bear in mind. When faced with the commission of atrocities, the international community and the Security Council can turn to an impartial and independent judicial institution that can begin to work immediately to identify those primarily responsible for committing crimes. International justice henceforth has a role to play in deterring crimes both during and after a crisis. After the Libyan example, inaction is more inexcusable and intolerable than ever.

Lastly, with regard to the process, the judicial process is now under way and must follow its course.

Investigations must be carried out if necessary. I am thinking in particular about investigations concerning sexual violence, to which the Prosecutor referred. Also, as he explained, the ICC will pursue only the principals, those who organized and ordered crimes. The first of those, Muammar Al-Qadhafi, has been killed and will not be able to answer to justice. But the other two individuals who have been indicted, Saif Al-Islam Al-Qadhafi and Abdullah Al-Senussi, must turn themselves in or be arrested.

We welcome the good cooperation and dialogue between the Office of the Prosecutor and the Libyan authorities. In the light of the scale of the crimes committed and given the risk of violence still affecting the country, and to meet the aspirations of the whole of Libyan society for more law and justice, complementarity between the actions of the ICC and those of the new Libyan authorities will be essential.

France welcomes the fact that, in accordance with resolution 1970 (2011), States and regional organizations have offered the Prosecutor their full cooperation, thus enabling his investigation to progress rapidly. Today, two arrest warrants remain outstanding. The Council must continue to track the implementation of those warrants, and the entire international community — including, if necessary, States in the region — must assist the authorities and the Prosecutor to ensure that the two individuals concerned finally answer for their acts before the law.

Mr. Barbalić (Bosnia and Herzegovina): Allow me to join others in congratulating you, Sir, on your assumption of the presidency of the Council this month. At the same time, allow me to congratulate Nigeria for its excellent work in the presidency in October.

I wish to thank Prosecutor Moreno-Ocampo for his briefing and to commend his continuous commitment to the interest of justice. We believe that, with our joint efforts, such determination can assist Libya in finding its way to a better future for its people.

At the same time, accounts from today's briefing, together with the report on the activities of the Office of the Prosecutor in the past six months, only reconfirm the disturbing facts we have heard from briefing to briefing.

Unfortunately, the present report is only one of many that evidence serious and continued violations of international humanitarian law and human rights law, including systematic violence against the civilian population in Libya. Findings of the Prosecutor's investigation, which was conducted in accordance with his mandate under resolution 1970 (2011), are deeply unsettling and have reinforced our conviction that the referral of the situation in Libya to the International Criminal Court (ICC) was timely and true to our commitments and obligations.

In that regard, my delegation welcomed the issuance of arrest warrants for those suspected of committing those crimes. Bosnia and Herzegovina has always strongly believed that addressing crimes and punishing those responsible is the main precondition for reconciliation and for sustainable and long-lasting peace and stability.

Given the dramatic way in which things have unfolded since the arrest warrants were issued, we hope now to see the people of Libya and the Transitional National Council (TNC) take responsibility for their future and their country. We therefore urge an independent and impartial investigation into circumstances surrounding the death of Muammar Al-Qadhafi and his son Mutassim. The rule of law must become a cornerstone of the newly rebuilt country. Justice must not become the privilege of a few, but a right for all.

It is our hope that the revolution in Libya will lead to fulfilment of the people's fair demands: a constitution that preserves the rights of all citizens and establishes the foundation of a civil State. To achieve that, it is crucial to address the grave atrocities and crimes committed. My country strongly supports the work of the Prosecutor and the ICC in ensuring justice for Libya's victims. In that context, we commend the pledge of the TNC authorities to cooperate with and support the Court.

Finally, I wish to underline Bosnia and Herzegovina's strong commitment to the ideas and goals of the ICC. It is our firm belief that through its work, the ICC can contribute greatly to peace and the process of reconciliation in Libya.

Mr. Salam (Lebanon) (*spoke in Arabic*): I would like to congratulate you, Sir, on your assumption of the presidency of the Security Council for this month. My delegation has confidence in your leadership abilities

and expertise. I also take this opportunity to thank Her Excellency Ambassador Ogwu and the Nigerian delegation for their wise leadership of the Council's work during the past month. I also wish to thank Mr. Luis Moreno-Ocampo, Prosecutor of the International Criminal Court (ICC), for his briefing. We appreciate his efforts and those of his Office to promote the rule of law.

We would recall that, at its emergency meeting convened in February, the Council of the League of Arab States condemned all actions against Libyan civilians as grave violations of human rights and international humanitarian law. Subsequently, in resolution 1970 (2011), the Security Council referred the situation in Libya to the Office of the Prosecutor of the ICC.

Lebanon therefore welcomes all measures taken by the Office of the Prosecutor over the past few months to address the serious crimes committed in Libya that can be classified as crimes against humanity following the outbreak of the revolution. We support the continued efforts to shed light on the facts in order to identify those criminally responsible, in particular with respect to the numerous cases of rape referred to in the report. We also support the efforts to arrest and bring to justice the two fugitives — Saif Al-Islam Al-Qadhafi and Abdullah Al-Senussi. The task of the International Criminal Court did not end with the demise of Muammar Al-Qadhafi.

Tribute must be paid to the constructive cooperation during the past few months by States, international and regional organizations and the National Transitional Council (NTC) with the Office of the Prosecutor, as indicated in the report. That cooperation has contributed to progress in the investigations. My country stresses the need for Libya's neighbouring countries to cooperate fully with the Court and with the Prosecutor pursuant to resolution 1970 (2011) in order to prevent their territories from becoming safe havens for anyone who attempts to escape from justice.

Lebanon also commends the responsible call made by the Chair of the National Transitional Council, Mr. Mustafa Mohammed Abdul Jalil that the revolutionaries refrain from acts of reprisal against those who fought on the side of Al-Qadhafi. We commend as well the calls for Libyan authorities to provide impartial trials for those who have been detained. Justice alone will provide the proper terms of reference to set the record straight and guarantee accountability. The custodians of the revolution and the guardians of its lofty values and image must ensure that the practices of the former dictatorial regime related to arbitrary detention, torture and summary judgments are not repeated.

In conclusion, Lebanon believes that the Council has referred the Libyan situation to the ICC in order to prevent continued grave crimes against the Libyan people, who seek freedom and democracy. Now that liberty has been restored in Libya, Lebanon stresses the need to move forward towards the trial of those who have been responsible for grave violations. Accountability is the way to guarantee justice for the victims and to lessen their suffering and that of their families. It serves as a key tool in turning the page on an era of a culture of impunity. It also serves to deter such actions from taking place in the future. Lebanon congratulates sisterly Libya, which deserves a new dawn after a long chapter of darkness, injustice and impunity.

Mrs. Viotti (Brazil): Allow me to congratulate you, Mr. President, on assuming the presidency of the Security Council and to wish you every success. I would like also to express our great appreciation to Ambassador Joy Ogwu of Nigeria, and to her team, for the excellent conduct of our work in October.

Let me thank Prosecutor Luis Moreno-Ocampo for his informative briefing and for the second report pursuant to resolution 1970 (2011). Brazil renews its support for the Court and for the work of Mr. Moreno-Ocampo's office.

The situation in Libya has entered a new phase that is veering away from conflict and towards peace and reconciliation among Libyans. In that new phase, some of the principles that inspired the creation of the International Criminal Court (ICC), namely, justice, accountability, non-discrimination and respect for the rule of law, will be fundamental to Libya. The role of the International Criminal Court will therefore be even more important in assisting Libya to bring about a truly democratic State that responds to the aspirations of the Libyan people for respect for human rights, a greater voice and representation for the people in their country's life, and enhanced opportunities.

Brazil welcomes the statements made by the National Transitional Council that stress the

importance of ensuring human rights, as well as the intent to avoid reprisals and acts of vengeance.

Tolerance and inclusiveness must mark the new era in Libya. We expect the new Libyan authorities to make every effort to bring the perpetrators of violations of human rights, regardless of their affiliation, to justice. Impunity must not be allowed to taint the transition. In that vein, reports of the arbitrary detention, torture and execution of Qadhafi loyalists must be investigated. Likewise, we are concerned by the circumstances that led to the death of Muammar Qadhafi. Brazil supports the call by the Office of the High Commissioner for Human Rights for an investigation into that case.

We are encouraged by the news that Prosecutor Moreno-Ocampo has been in indirect contact with Saif Al-Islam Al-Qadhafi concerning his surrender. Such efforts must be continued in order to ensure that Mr. Saif Al-Islam Al-Gadhafi and Mr. Abdullah Al-Senussi are brought to trial.

We encourage the Prosecutor to proceed on all lines of investigation mentioned in the report, in particular those related to possible war crimes by all actors and the protection of vulnerable sectors of the population, including African migrant workers. The continuation of ICC investigations carried out with full independence and impartiality will be crucial in the post-conflict stage in order to ensure accountability and justice. Those are essential elements for reconciliation and the establishment of durable peace, which should be the Council's ultimate goal for Libya.

Mr. Sangqu (South Africa): We join others in expressing our congratulations to you, Mr. President, for assuming the presidency of the Council for the month of November. You have our full support. We also join in expressing our thanks to Ambassador Ogwu for the skilful manner in which she directed our affairs in the month of October. We also thank Mr. Luis Moreno-Ocampo for his progress report. We continue to support the Court's efforts to bring justice to the victims of atrocities committed in Libya.

We supported the referral of the situation in Libya to the International Criminal Court because of our long-standing commitment to the fight against impunity for serious crimes. When the Prosecutor presented his first report to the Council, we reminded him that justice is blind and requested that all atrocities committed in Libya since 15 February 2011 should be investigated and prosecuted if sufficient evidence is found.

The protection of civilians, which inspired the introduction of resolution 1970 (2011), should benefit all Libyans caught in the crossfire of the conflict in which that country found itself.

South Africa is concerned about reports from the United Nations Commission of Inquiry on Libya into arbitrary mass arrests and mistreatment, in particular of black Africans suspected of being pro-Qadhafi mercenaries. We hope that the possible targeting of black Africans will receive due attention by the Office of the Prosecutor.

We have also noted with concern several reports by organizations, such as Amnesty International and Human Rights Watch, to the effect that atrocities have been committed on both sides of the conflict. Just last week, the Secretary-General's Special Representative for Libya provided information to the Council with respect to reports that killings among the duelling camps were committed by both sides in the final battle for Sirte. We are pleased that the National Transitional Council (NTC) has distanced itself from those atrocities and has expressed its intention to conduct investigations. That will be important for complementarity, which is important for the Court. It will, nonetheless, be necessary for the ICC investigations to convene.

We encourage the Office of the Prosecutor to convene new investigations into cases of sexual violence, including cases of gang rape. In that regard, we have noted with the United Nations Commission of Inquiry that, while the reports of rape could not be verified, there was sufficient information to warrant further investigations. We welcome the decision of the Office of the Prosecutor to conduct on-site investigations as well as the assurances of the NTC that it will fully cooperate.

We have taken note of the Prosecutor's progress report, especially in terms of the following issues: first, the contacts with Saif Al-Islam Al-Qadhafi concerning his surrender; secondly, the progress in on-the-ground investigations that have been undertaken thus far; thirdly, the willingness of the Office of the Prosecutor to conduct investigations into the circumstances that led to the death of Muammar Qadhafi; and fourth, the need for comprehensive investigations into possible

further crimes committed by NATO, the NTC and pro-Qadhafi forces.

We look forward to your report in May, Sir.

Ms. Ogwu (Nigeria): Allow me, Mr. President, to convey the very warm congratulations of my delegation to you on your assumption of the Presidency of the Council and to assure you of our unalloyed support. We are also grateful to Mr. Moreno-Ocampo for his second report pursuant to resolution 1970 (2011), which outlines the important progress made in the ongoing investigations in Libya.

Nigeria remains firmly committed to the fight against impunity and is supportive of the work of the International Criminal Court (ICC) aimed at ensuring that impunity is addressed decisively, wherever it occurs. We believe that the fight against impunity is the collective responsibility of States, the ICC and relevant stakeholders. It is imperative, therefore, for States to cooperate to ensure the realization of that objective. In that connection, we welcome the ICC's ongoing contact with the Libyan authorities. Of equal significance is the pledge by the National Transitional Council to cooperate with the Court to ensure justice for victims in Libya.

The work of the ICC is absolutely central to the restoration of stability of Libya, a nation not only in transition but one in search of healing. The systematic and widespread violations of human rights orchestrated by the former regime have no doubt left not only open veins but also physical and emotional scars in Libya. However, an objective, well managed investigation and prosecution will not only restore confidence to segments of Libya but should lead to national reconciliation, a crucial ingredient in national healing.

We are deeply concerned that the escape of the indictees from Libya could have significant security and political implications for neighbouring States in West Africa, especially Niger and Mali. Indeed, the countries of the Sahel region have already expressed great apprehension about the illegal movement of small arms and light weapons within the region. We cannot afford to see the Sahel region or neighbouring countries turn into bases from which subversive activities could be launched, maintained or sustained against the people of Libya and the region.

We note with satisfaction the cooperation extended to the ICC by States and regional and international organizations, pursuant to paragraph 5 of resolution 1970(2011), which has contributed in no small measure to the positive results achieved thus far in the investigations of the cases in Libya. We stress the need for continued cooperation with the Court, as that will help expedite completion of the current investigations. We encourage the ICC to be relentless in its collaboration with the United Nations Commission of Inquiry and the African Commission for Human and People's Rights in their work and to ensure that gender crimes and attacks on foreign nationals and black African migrants are appropriately addressed in their investigations.

We believe that, in the light of recent and evolving developments in Libya, the ICC and the Libyan authorities must work closely to develop ways and means of advancing the ongoing investigations with a view to providing justice to Libya's victims.

Mr. Wang Min (China) (*spoke in Chinese*): I congratulate you, Mr. President, on your assumption of the presidency of the Security Council for this month. I also thank Ambassador Ogwu, Permanent Representative of Nigeria, for her excellent conduct of the work of the Council as President during the month of October.

I have listened carefully to the briefing by Mr. Moreno-Ocampo. Libya has now entered a new historic stage. We hope that Libya will start an inclusive process of political transition as soon as possible, and that it will safeguard national unity and integrity, take early steps to achieve social stability and begin political and economic reconstruction. The international community should continue its joint effort in support of political transition and post-conflict reconstruction in Libya.

China's position on issues concerning the International Criminal Court remains unchanged.

Mr. Wittig (Germany): Let me join others in congratulating you and your team, Mr. President, on your assumption of the presidency of the Council for the month of November. We assure you of our firm support. Let me also commend and very warmly thank our colleague Ambassador Joy Ogwu for her able and wise stewardship of the Council during the previous month.

I would like to begin by expressing Germany's sincere appreciation for all the efforts undertaken by

the International Criminal Court (ICC), and personally by Mr. Moreno-Ocampo, to ensure the implementation of resolution 1970 (2011), notably through the Court's issuance of arrest warrants against Muammar Al-Qadhafi, Saif Al-Islam Al-Qadhafi and Abdullah Al-Senussi. The warrants testify to the determination of the international community not to let the commission of atrocities go unpunished, but to identify those individuals that are responsible under international criminal law.

Germany remains ready to support the ongoing investigations following requests for cooperation. We are also very encouraged by the current efforts of the Prosecutor to ensure the transfer of the remaining two indicted persons to The Hague. Just as the death of Colonel Al-Qadhafi marks the beginning of a new era for Libya, obtaining justice, respect for human rights and the rule of law must be at the forefront of our minds. Just last week, by adopting resolution 2016 (2011), the Council confirmed the importance of cooperation to ensure that those responsible for violations of human rights and international humanitarian law or those who are complicit in attacks targeting the civilian population are held accountable.

We call on the National Transitional Council to ensure independent and impartial investigations to establish the facts of the alleged human rights abuses and war crimes committed by both sides to the conflict. Transitional justice will be an important issue for the Libyan authorities. Dealing successfully with the issue will pave the way for national reconciliation.

At this time, we should also recall that the Council took a historic decision by unanimously adopting resolution 1970 (2011) and referring the situation in Libya to the ICC. The protection of civilians being its central idea, or leitmotif, the core message of the resolution is to remind the world of the responsibility of each and every State to protect its population from genocide, war crimes, ethnic cleansing and crimes against humanity. The significance of the message goes far beyond the context of Libya. It should be heard in other places where gross violations of human rights occur.

Sir Mark Lyall Grant (United Kingdom): At the outset, I would like to join my colleagues in congratulating you, Sir, on your assumption of the presidency of the Security Council for the month of November. I also join other speakers in thanking Ambassador Ogwu and her team for their wise stewardship of the Council last month. I would like to thank Prosecutor Luis Moreno-Ocampo for his report on the situation in Libya and the important information that he has shared with the Security Council this afternoon.

The conflict in Libya has ended. The National Transitional Council has announced the country's liberation. The Libyan people led that effort. Their sacrifice and determination brought about their freedom. The international community has also played its role, including by protecting civilians and supporting humanitarian aid, in accordance with the resolutions of the Council.

The Libyan people are now coming together to build a peaceful, democratic and prosperous new Libya. They now know that Al-Qadhafi will never again be able to threaten and brutalize them and their country. We hope that that will bring relief to the Libyans who suffered under his rule and to the victims of his actions abroad. To demonstrate their clear break from the past, Libya's authorities should continue to speak out against reprisals and should hold those guilty of abuses to account. In that regard, we welcome the National Transitional Council's investigation into the circumstances of Al-Qadhafi's death.

The developments in Libya should give all Governments reason to pause before using violence against their own people. The international community will ensure that responsible individuals within such Governments are held to account, either in their own courts or in international courts such as the International Criminal Court (ICC). Impunity is no longer tolerable. In that context, the Government of Syria ought to be aware that the eyes of the world are upon it.

The United Kingdom is a strong supporter of the Court. It played a leading role in securing the unanimous adoption of resolution 1970 (2011), which referred the situation in Libya to the Court. The Council's swift and decisive action in that resolution was matched by the work of the Prosecutor and his Office in paving the way for arrest warrants to be issued within four months. Their conduct of the case so far has set new standards for international criminal justice. I would like to thank him and his staff for their efforts to bring justice to the victims of atrocities in Libya.

Of course, the ICC's investigation into the situation in Libya does not end with the death of Al-Qadhafi. Two arrest warrants for individuals suspected of crimes against humanity are still outstanding. As Mr. Moreno-Ocampo has explained this afternoon, the ICC is conducting other investigations, including into the circumstances of Al-Qadhafi's death. Saif Al-Islam and Abdullah Al-Senussi remain at large and must be brought to face justice before a court of law.

To accomplish that goal, the ICC needs the cooperation of States. The authorities of the United Kingdom have played a part in the ICC's investigations so far by providing the fullest support, as and when requested, to the Prosecutor and his team of investigators. We call on the Libyan authorities to continue their full cooperation with the ICC as it pursues its investigations. We would also encourage Libya's neighbours to do the same, including by arresting and surrendering the two indictees, should they be found on their territory.

Mr. Messone (Gabon) (*spoke in French*): We, too, would like to express our satisfaction at seeing you, Sir, preside over the work of the Council for the month of November. We also take this opportunity to heartily congratulate Ambassador Joy Ogwu for the remarkable way in which she led our efforts last month.

We thank the Prosecutor of the International Criminal Court, Mr. Moreno-Ocampo, for his second report under paragraph 7 of resolution 1970 (2011) and for the additional information that he has just given us following his recent visit to Libya. The Prosecutor's briefing demonstrates the commitment to shed light on the crimes committed in Libya by the former regime. We would recall that on 27 June arrest warrants were issued against three individuals alleged to be guilty of widespread and systematic attacks against the civilian population.

We note and we welcome the independence and impartiality with which the Court is conducting its proceedings. It is important that the Court be perceived as being the guarantor of the rights of everyone, including suspects. Likewise, we note that the ongoing investigations cover the issues of violence against women, indemnification and victim protection. We also note that the Office of the Prosecutor is dealing with acts of violence committed by forces loyal to the National Transitional Council. Gabon, a country that has always fought against impunity in all its forms, hopes that the criminals in Libya will be prosecuted so as to create the conditions necessary for peace, justice and lasting reconciliation.

We note the commitment of the new authorities in Libya to ensure justice with regard to crimes committed in Libya, especially in Benghazi, Misrata and Tripoli. Beyond specific ongoing procedures, the efforts of the authorities and of the Security Council must seek to shed light on serious crimes committed all over Libya, including against foreign workers, in particular migrant workers from sub-Saharan Africa. It is important that the Office of the Prosecutor have all that it needs to conduct its investigations.

We encourage the Prosecutor to work closely with Libyan authorities and the International Independent Commission of Inquiry set up by the Human Rights Council, as well as to cooperate with regional organizations and Libya's neighbouring States. The Court's action could help improve security in the region. We assure the Prosecutor that the Gabonese Government is prepared to cooperate in its efforts in Libya.

We would also like to recall the responsibility of the new Libyan authorities to fully cooperate with the Court, in accordance with the obligations they have undertaken. In conclusion, Libya is now undergoing a historic transition. The Security Council and the international community, which have supported the significant changes that have taken place in the country, should encourage the Libyan authorities to base their new institutions on respect for the rule of law and democratic values. In that respect, we very much welcome the commitments undertaken by the authorities to establish conditions favourable to the emergence of a country committed to the rule of law.

The President: I shall now make a statement in my capacity as the representative of Portugal.

I wish once again to express Portugal's deep appreciation to Ambassador Ogwu and her team for the very skilful and efficient way she conducted the Council's business during the month of October. I wish, of course, to thank my colleagues for their kind words of support in connection with our tenure in the presidency.

I thank the Prosecutor of the International Criminal Court, Mr. Moreno-Ocampo, for his report and comprehensive briefing today. I also want to commend him for the investigative work under way, for the efforts that his Office is undertaking and for the information provided on the recent mission to Libya and its contacts with the National Transitional Council.

We welcome Libya's announcement to submit to an Independent Commission of Inquiry into the circumstances surrounding the death of Muammar Al-Qadhafi. We are concerned by reports concerning violent acts of retaliation, persecution and revenge in recent days in different parts of the country. We strongly believe that accountability for all violations of human rights must be ensured. In that context, we must stress the need to protect migrants, in particular from the sub-Saharan region, from violence and persecution.

We express our full support to the Office of the Prosecutor for the continuation of the investigation efforts, and we commend the support by States and organizations in those endeavours to assist the Prosecution.

Finally, we look forward to the report to be presented early next year by the United Nations International Commission of Inquiry established by the Human Rights Council. We expect that the Office of the Prosecutor will continue to closely liaise with the Commission.

I now resume my functions as President of the Council.

I give the floor to the representative of Libya.

Mr. Dabbashi (Libya) (*spoke in Arabic*): Allow me, at the outset, to congratulate you, Mr. President, on your assumption of the presidency of the Security Council for this month. I am confident that under your capable and wise leadership the Council will enjoy success in its efforts. I would also like to congratulate Ambassador Joy Ogwu, Permanent Representative of Nigeria, for the excellent way in which she led the work of the Council over that past month.

I also wish to thank you, Mr. President, for giving me an opportunity to address the Council at this meeting. Allow me also to reiterate my gratitude to the Security Council and the international community for their continued support to the Libyan people in their struggle for freedom, democracy and a life of dignity.

I would like to associate myself with th statements made by previous speakers in welcomin Mr. Luis Moreno-Ocampo, Prosecutor of th International Criminal Court (ICC). I thank him for hi valuable briefing and for the ongoing efforts by hir and his team to implement the mandate of the ICC a set forth in resolution 1970 (2011).

It has become evident to the Security Council an to the entire international community that sinc 15 February thousands of Libyans have been th victims of grave and horrible atrocities and crimes a the hands of Al-Qadhafi's forces and mercenaries According to the Rome Statute, such crimes should no be allowed to go unpunished, their perpetrators shoul not escape prosecution and impunity must be put to a end.

In that context, I would like to reiterate yet agai that the new authorities in Libya, which have emerge as a result of the revolution of the Libyan peopl against injustice, will give the highest priority to th achievement of justice, for there can be no securit without justice, and democracy, development and prosperity cannot be achieved without security.

To that end, the national transitional Governmen will take the appropriate legal measures to ensure tha all those involved in crimes not covered under the jurisdiction of the ICC are subjected to transparent investigations and given fair and just trials in Libyan courts. That will also include any transgressions or crimes that may have been committed against citizens of other countries in Libya.

The National Transitional Council and the future Government will continue to maintain consultations and close cooperation with the Office of the Prosecutor of the ICC concerning the individuals against whom the ICC has issued arrest warrants, especially in efforts to gather and preserve evidence.

The second report of the Prosecutor, which has today been submitted to the Security Council, contains a summary of various important activities, including the issuance of arrest warrants, continued investigations and other future judicial actions. Libya greatly appreciates all those efforts, and calls on the Security Council to continue supporting them. We also ask for the cooperation of all States party and non-party to the Rome Statute of the ICC, in compliance with resolution 1970 (2011) and specifically paragraph 5 of that resolution. The report

mentions that the Office of the Prosecutor continues to receive international assistance. All that my country asks is that everyone, especially Libya's neighbouring States, continue to comply with the resolution and refrain from providing safe haven for any fugitives from Libya, whether they are wanted by the ICC or the Libyan judiciary.

In his briefing to the Council in May (see S/PV.6528), the Prosecutor emphasized the importance of international cooperation in the conduct and progress of judicial measures in Libya. Current judicial procedures include orders for the arrest of those involved in war crimes or crimes against humanity. Every State has a duty to assist in arresting such individuals and extraditing them for trial.

Libyan authorities have also found that other serious crimes were committed by members of the Al-Qadhafi family, high officials, mercenaries and members of Al-Qadhafi's security forces. Those crimes include theft of public funds, rape and extra-judicial killings and assassinations. Libyan judicial authorities are gathering evidence concerning these crimes, and will take the necessary legal steps against their perpetrators.

The Libyan authorities are determined to maintain the rule of law, fulfil all their obligations and arrest those charged with crimes who are on Libyan territory and bring them to justice. We are certain that this can be done through Libyan efforts. Nonetheless, as stated in the Prosecutor's report, Libya's efforts must be supported with appropriate coordination and information-sharing, as well as by efforts by every State to support the ICC and Libyan authorities in achieving that goal. I assure the Council that the new Libyan authorities have nothing to hide. They believe that achieving justice is a fundamental element in the creation of a secure, stable and prosperous democratic State. No one in the new Libya will have impunity for any crimes they may have committed.

It has often been said in the Chamber that justice cannot be separated from peace, and that peace, security and social stability cannot be achieved without subjecting those involved in grave crimes to transparent investigations and fair trials, with all due process and legal guarantees. We will work to achieve that. The establishment of peace in Libya, and indeed in the entire region, requires continued efforts on the part of the Security Council and all States to support efforts to achieve justice for the thousands of innocent Libyan victims. Primary among those efforts are those of the Office of the Prosecutor of the ICC. The Libyan authorities will continue to cooperate with the Prosecutor and provide him with all possible assistance and support in fulfilling his mandate.

The President: There are no further names inscribed on my list. The Security Council has thus concluded the present stage of its consideration of the item on its agenda.

The meeting rose at 4.40 p.m.